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Robert A. West

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EXAMINER

SHRESTHA, BIJENDRA K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/680,455	Applicant(s) WEST ET AL.	
	Examiner BIJENDRA K. SHRESTHA	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Claims 1-23 are presented for examination. Applicant filed an amendment on 03/05/2009 amending claims 1, 3, 4 and 18. After careful consideration of applicant's arguments and amendments, new grounds of rejections of claims are established in the instant application as set forth in detail below. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-17, it appears that the claimed method steps could simply be performed by mental process alone and are not statutory. These claims are directed towards steps of "creating", "selecting", "displaying" and receiving without including another machine. Since the claims are directed to a process without including another machine, these claims fall within the scope of human intelligence alone, and are non-statutory. The dependent claims 2-28 and 30-49 which depend upon independent claim 1 and 29 evidently rejected under 35 U.S.C. 101.

The applicant amended the claims 1, 29 and 50 with addition of claim language "at a computer device". Examiner recommends to replace the language of "associated

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with processor" by "via a computer device" or "by a computer device " in order to positively claim the invention by tying with a machine.

Based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, Applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101.

Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

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obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 32-51 of copending Application No.

10/950,916 and claims 1 and 24-34 of Application 11/417,532. Although the conflicting claims are not identical, they are not patentably distinct from each other because '916 application in claims 32-51, and '532 application in claims 1 and 24-34 teaches all the elements in claims 1-17 in the instant application.

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

As per claims 1 and 2 of instant application, claims 32 and 42 of applications '916, and claims 1 of '532 application teaches

a method for displaying and controlling risk related information in an electronic trading environment comprising creating a display interface comprising a nodal display and at least one display grid, selecting data nodes in the nodal display to be mapped to the at least one display grid, displaying trader-related risk information associated with the selected data nodes on the at least one display grid, receiving a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display

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comprises a new arrangement of data nodes; and responsive to said user input, updating the at least one display grid so that the trader- related risk information is displayed on the at least one display grid according to the new arrangement of data nodes in the nodal.

Claim Objections

4. Claim 2 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 which is written as computer readable medium but improperly recited to depend upon method claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12 and 15-23 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Galant, U.S. Pub No. 2003/0182220 (reference A in attached PTO-892) in view of Tiefenbrun, U.S. Pub No. 2003/0105771 (reference B in attached PTO-892).

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7. As per claim 1, Galant teach a method for displaying and controlling risk related information in an electronic trading environment, the method comprising:

creating at a computer device a display interface comprising a nodal display and at least one display grid (see Fig. 2B and Fig. 3B), wherein the nodal display comprises a plurality of data nodes associated with trader- related risk information being automatically updated based on fill information being received from at least one electronic exchange (see paragraph [0056]; Fig. 47), and

selecting at a computer device data nodes in the nodal display to be mapped to the at least one display grid (see Fig. 3 and 5; where selection of data node “Swap Spreads” in Fig. 3 displays grid in Fig. 5);

displaying at a computer device trader-related risk information associated with the selected data nodes on the at least one display grid (see Fig. 24, Interest Rate Risk (712); Fig. 26, volatility), wherein the trader-related risk information is displayed on the at least one display grid according to an arrangement of the data nodes in the data structure (see Fig. 18, paragraph [0094] and Fig. 20, [0096]; where top 10 top ten issues having largest losses for the day is displayed); and

responsive to said user input (see Fig. 2B), updating at a computer device the at least one display grid so that the trader- related risk information is displayed on the at least one display grid according to the new arrangement of data nodes in the nodal display (see Fig. 4, paragraph [0071] and [0077]; where auto refresh tab automatically updates display in response to a user input).

Galant does not teach receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes.

Tiefenbrun et al. teach receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes (Tiefenbrun et al., Fig. 7C; paragraph [0040]; where creating and modifying the selection and priority of attributes of tree construction are displayed, user can move attributes between different nodes in different locations and unnecessary tree node can be deleted)

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to incorporate receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes of Galant et al. because Tiefenbrun et al. teach incorporating above features enable to identify those attributes that do not correspond with the navigation criteria (Tiefenbrun et al., paragraph [0040], last sentence).

8. As per claim 2, Galant in view of Tiefenbrun et al. teach claim 1 as described above . Galant further teach a computer readable medium having stored therein instructions to execute the method of claim 1(see Fig. 1; paragraph [0011]).

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9. As per claim 3, Galant in view of Tiefenbrun et al. teach claim 1 as described above. Galant further teach the method wherein

the nodal display is arranged in a tree-based nodal display (see Fig. 13; paragraph [0010] and [0089]).

10. As per claim 4, Galant in view of Tiefenbrun et al. teach claim 3 as described above. Galant further teach the method wherein

the data nodes in the tree-based nodal display are arranged such that each higher ranked node is a sum of lower ranked sub-nodes (see paragraph [0012]).

11. As per claim 5, Galant in view of Tiefenbrun et al. teach claim 4 as described above. Galant further teach the method wherein

the data nodes are grouped based on accounts being used by each trader such that each higher ranked node is a sum of a plurality of account sub-nodes corresponding to accounts of a plurality of traders (see Fig. 3; where data nodes are grouped Government, Corporate and Equity where, for example, higher ranked data node is sum of plurality of sub-nodes such as Portfolios, Current Spreads, Priority Issues and All New Issues; Examiner notes this analogy could be applied to multiple traders account).

12. As per claim 6, Galant in view of Tiefenbrun et al. teach claim 5 as described above. Galant further teach the method wherein

each of the plurality of account sub-nodes is associated with at least one sub-node corresponding to a tradable object being traded under each respective account

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(see Fig. 3; where Government bonds/treasury bills, Corporate Securities and Equity are tradable objects under each respective account).

13. As per claim 7, Galant in view of Tiefenbrun et al. teach claim 4 as described above. Galant further teach the method wherein

the data nodes are grouped based on an electronic exchange at which tradable objects are being traded such that the higher ranked node is a sum of a plurality of tradable object sub-nodes associated with at least one tradable object being traded at a predetermined electronic exchange (see Fig. 41).

14. As per claim 8, Galant in view of Tiefenbrun et al. teach claim 4 as described above. Galant further teach the method wherein

the data nodes are grouped based on a currency in which tradable objects are being traded such that the higher ranked node is a sum of a plurality of tradable object sub-nodes associated with at least one tradable object being traded in a predetermined currency (see Fig. 6).

15. As per claim 9, Galant in view of Tiefenbrun et al. teach claim 1 as described above. Galant further teach the method wherein

the selected data nodes are displayed on the at least one display grid based on a user-selectable display pattern (see Fig. 2B).

16. As per claim 10, Galant in view of Tiefenbrun et al. teach claim 1 as described above. Galant further teach the method wherein

the at least one display grid comprises at least one two-dimensional grid (see Fig. 3).

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17. As per claim 11, Galant in view of Tiefenbrun et al. teach claim 10 as described above. Galant further teach the method wherein

the at least one data display grid comprises a plurality of cells arranged in a plurality of rows and columns (see Fig. 3).

18. As per claim 12, Galant in view of Tiefenbrun et al. teach claim 11 as described above. Galant further teach the method comprising:

displaying data corresponding to higher ranked nodes in a plurality of cells corresponding to a selected column; and

displaying data corresponding to lower ranked node corresponding to each higher ranked node in respective rows corresponding to each higher ranked node (see Fig. 15).

19. As per claim 15, Galant in view of Tiefenbrun et al. teach claim 1 as described above. Galant further teach the method wherein

the trader-related risk information comprises profit and loss (P/L) related information (see Fig. 3; Fig. 17-20; PCT Gainers (128), PCT Losers(129), Net Gainers(130) and Net Losers(131)).

20. As per claim 16, Galant in view of Tiefenbrun et al. teach claim 15 as described above. Galant further teach the method wherein

the P/L related information is selected from a group consisting of a current P/L value, a high P/L value, and a low P/L value during a predetermined time period (see Fig. 17-20; paragraph[0093-0096]).

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21. As per claim 17, Galant in view of Tiefenbrun et al. teach claim 1 as described above. Galant further teach the method wherein

the trader-related risk information comprises a net position (see Fig. 25 and 26; where call and put structures for bond is illustrated; Examiner notes that user have flexibility of displaying “net position” as described in Fig. 2B).

22. As per claim 18, Galant teach a display interface embodied on a computer readable medium for execution on a computer, the display interface for displaying trader related risk information, the display interface comprising:

a nodal display comprising a plurality of data nodes associated with trader-related risk information being automatically updated based on fill information being received from at least one electronic exchange(see paragraph [0056]); and

at least one display grid comprising a plurality of cells, wherein the at least one display grid displays trader-related risk information corresponding to data nodes selected from the nodal display (see Fig. 3; where trade related risk information include net losers and net gainers) and,

wherein the trader-related risk information is displayed on the at least one display grid according to an arrangement of the data nodes in the nodal display (see Fig. 18, paragraph [0094] and Fig. 20, [0096]; where top 10 top ten issues having largest losses for the day is displayed); and

responsive to said user input, the at least one display grid updates so that the trader-related risk information is displayed on the at least one display grid according to

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the new arrangement of data nodes in the nodal display (see Fig. 4, paragraph [0071] and [0077]; where auto refresh tab automatically updates display in response to a user input).

Galant does not teach receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes.

Tiefenbrun et al. teach receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes (Tiefenbrun et al., Fig. 7C; paragraph [0040]; where creating and modifying the selection and priority of attributes of tree construction are displayed, user can move attributes between different nodes in different locations and unnecessary tree node can be deleted)

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to incorporate receiving at a computer device a user input that selects a first data node from a first location in the nodal display and moves the first data node to a second location in the nodal display, wherein the nodal display comprises a new arrangement of data nodes of Galant et al. because Tiefenbrun et al. teach incorporating above features enable to identify those attributes that do not correspond with the navigation criteria (Tiefenbrun et al., paragraph [0040], last sentence).

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23. As per claim 19, Galant in view of Tiefenbrun et al. teach claim 18 as described above. Galant further teach the display interface wherein

the at least one display grid comprises a two-dimensional display grid (see Fig. 3).

24. As per claim 20, Galant in view of Tiefenbrun et al. teach claim 18 as described above. Galant further teach the display interface wherein

the data nodes comprise a plurality of higher ranked nodes and a plurality of lower ranked sub-nodes, wherein each higher ranked node is a sum of lower ranked sub-nodes corresponding to the higher ranked node.

25. As per claim 21, Galant in view of Tiefenbrun et al. teach claim 18 as described above. Galant further teach the display interface wherein

the higher ranked nodes are grouped based on accounts being used by each trader such that each higher ranked node is a sum of a plurality of lower ranked tradable object data nodes associated with a plurality of tradable objects being traded under each account (see Fig. 3; where data nodes are grouped as Government, Corporate and Equity where, for example, higher ranked data node is sum of plurality of sub-nodes such as Portfolios, Current Spreads, Priority Issues and All New Issues).

26. As per claim 22, Galant in view of Tiefenbrun et al. teach claim 18 as described above. Galant further teach the display interface wherein

the higher ranked node is associated with a predetermined exchange, and the higher ranked node is associated with a plurality of sub-nodes corresponding to a plurality of tradable objects being traded at the predetermined exchange (see Fig. 41).

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27. As per claim 23, Galant in view of Tiefenbrun et al. teach claim 18 as described above. Galant further teach the display interface wherein

the higher ranked node is associated with a predetermined trader, and the higher ranked is associated with a plurality of sub-nodes corresponding to a plurality of tradable objects being traded by the trader (see Fig. 3; where data nodes are grouped Government, Corporate and Equity where, for example, higher ranked data node is sum of plurality of sub-nodes such as Portfolios, Current Spreads, Priority Issues and All New Issues; Examiner notes this analogy could be applied to multiple traders account).

28. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galant U.S. Pub No. 2003/0182220 (reference A in attached PTO-892) in view of Tiefenbrun et al., U.S. Pub No. 2003/0105771 (reference B in attached PTO-892) further in view of Levy, U.S. Patent No. 5,673,028 (reference C in attached PTO-892).

29. As per claim 13, Galant in view of Tiefenbrun et al. teach claim 11 as described above. Galant further teach the method comprising displaying financial information as desired by the user (see Fig. 2B).

Gallant does not teach changing an appearance of a cell upon detecting a triggering condition and the triggering condition is associated with data being displayed in the cell.

Levy teach changing an appearance of a cell upon detecting a triggering condition and the triggering condition is associated with data being displayed in the cell Levy, Fig. 4 and 12; abstract).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to allow changing an appearance of a cell upon detecting a triggering condition and the triggering condition is associated with data being displayed in the cell of Galant et al. because Levy teach that testing circuitry continually, or periodically , monitor one or more parameters of electronic component and generates a signal when there is a deviation from certain stated conditions (Levy, column 8, lines 37-39).

Response to Arguments

30. New grounds of rejections of claims have been established in the instant application. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Accordingly, this action is made **Non-Final**.

Conclusion

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. The following are pertinent to current invention, though not relied upon:

Buist (U.S. Patent No. 6,408,282) teaches system and method for conducting securities transactions over a computer network.

Brumfield et al. (U.S. Pub No. 2004/0117292) teach system and method for trading and displaying market information in an electronic trading environment.

Defario (U.S. Pub No. 2002/0004774) teach data analysis system for tracking financial trader history and profiling trading behavior.

Herbert et al. (U.S. Patent No. 7,075,552) teach system and method for display grid characterization, calibration and verification.

Khemlani et al. (U.S. Pub No. 2002/0049713) teach website for financial information.

Sarkar (U.S. Patent No. 6,012,067) teach method and apparatus for storing and manipulating objects in plurality of relational data managers on the web.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00AM-4:30 PM(Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
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